

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): June 25, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Kansas City District, New Town at Liberty, 2007-1292

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Reach 17, Wetland F, Wetland H, and Wetland I

State: Missouri

County/parish/borough: Clay

City: Liberty

Center coordinates of site (lat/long in degree decimal format): Lat. 39.29304247° **N**, Long. -94.4213122° **W**.

Universal Transverse Mercator:

Name of nearest waterbody: Fishing River (RPW)

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Missouri River

Name of watershed or Hydrologic Unit Code (HUC): Lower Missouri-crooked (HUC 8 10300101)

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: August 28, 2007

☒ Field Determination. Date(s): September 5, 2007 and December 5, 2007

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- ☒ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 3,955 (1975 within the project area) linear feet: 1-2 width (ft) and/or acres.

Wetlands: 0.10 acres.

c. Limits (boundaries) of jurisdiction based on: Established by OHWM.

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”: .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 670 acres

Drainage area: 105 acres

Average annual rainfall: 38-40 inches

Average annual snowfall: 19-23 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 3 tributaries before entering TNW.

Project waters are 25-30 river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project waters are 15-20 aerial (straight) miles from TNW.

Project waters are 1-2 aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: unnamed tributary flows to the Fishing River (RPW) then drains to the Missouri River (TNW).

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: r.

(b) **General Tributary Characteristics (check all that apply):**

Tributary is:

☒ Natural

☐ Artificial (man-made). Explain: .

☒ Manipulated (man-altered). Explain: Several ponds have been constructed within the drainage area of this channel, with one pond upland of the origin of the channel.

Tributary properties with respect to top of bank (estimate):

Average width: 1-2 feet

Average depth: 1-2 feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

☐ Silts

☐ Sands

☐ Concrete

☐ Cobbles

☒ Gravel

☒ Muck

☐ Bedrock

☐ Vegetation. Type/% cover:

☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 1-1.5 %

(c) **Flow:**

Tributary provides for: **Ephemeral flow**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: This channel flows during and for a short time after rain events of sufficient volume to create runoff. Other factor such as soil saturation rate may affect the amount and duration of flow. The size watershed and the physical characteristics of the channel indicated that flow volume and velocity are minimal (low energy).

Surface flow is: **Confined**. Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks

☒ OHWM⁶ (check all indicators that apply):

☐ clear, natural line impressed on the bank

☐ changes in the character of soil

☐ shelving

☐ vegetation matted down, bent, or absent

☐ leaf litter disturbed or washed away

☐ sediment deposition

☐ water staining

☐ other (list):

☐ Discontinuous OHWM.⁷ Explain: .

☐ the presence of litter and debris

☒ destruction of terrestrial vegetation

☐ the presence of wrack line

☐ sediment sorting

☐ scour

☐ multiple observed or predicted flow events

☐ abrupt change in plant community

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☒ High Tide Line indicated by:

☐ oil or scum line along shore objects

☐ fine shell or debris deposits (foreshore)

☐ physical markings/characteristics

☐ tidal gauges

☐ other (list):

☐ Mean High Water Mark indicated by:

☐ survey to available datum;

☐ physical markings;

☐ vegetation lines/changes in vegetation types.

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: No known pollutants have been identified.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

☒ Riparian corridor. Characteristics (type, average width): Typical mature forested area with various species of understory vegetation. Numerous undesirable species present (Eastern Cedar, Osage Orange). The width of the corridor varies from 20-30 feet and is along the entire reach of this stream, with sparse wooded vegetation and grass (cover less than 40%).

☐ Wetland fringe. Characteristics: .

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: The riparian corridor provides habitat for terrestrial wildlife, no aquatic habitat due to ephemeral nature of channel.

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland F 0.02 acres, Wetland H 0.07 acres, and Wetland I 0.01 acres

Wetland type. Explain: emergent vegetation.

Wetland quality. Explain: Low quality habitat for aquatic life due to the size of the wetland, lack of vegetation, the fact that the area is dry during the dry months of the year.

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow**. Explain: Both of these wetlands were originally constructed as farm ponds and have silted in with sediments and have converted to low functioning wetland areas. The flow into these areas is overland, but there is no flow out of the wetlands due to the former pond berm.

Surface flow is: **Overland sheetflow**

Characteristics: .

Subsurface flow: **Unknown**. Explain findings: The area is very shallow and dries out annually during the summer and fall months, indicating no subsurface groundwater interface.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: Although these wetlands are within a drainage swale, the wetland areas do not provide for flow down gradient because the flow is blocked by the former pond berm. There is no OHWM discernible up or down gradient of the wetlands.

(d) Proximity (Relationship) to TNW

Project wetlands are **25-30** river miles from TNW.

Project waters are **20-25** aerial (straight) miles from TNW.

Flow is from: **No Flow**.

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: No known pollutants have been identified.

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

☒ Riparian buffer. Characteristics (type, average width): Areas adjacent to the wetlands are fescue pasture.

☒ Vegetation type/percent cover. Explain: emergent vegetation, less than 50% cover.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: Minimal aquatic wildlife, only during wetter months. Because of the sparse vegetation, this wetland area provides minimal terrestrial habitat (especially during the dry months of the year).

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **3**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
N	0.02	N	0.07
N	0.01		

Summarize overall biological, chemical and physical functions being performed: Although the NWI maps identify several water features as wetland, the majority of the features are livestock ponds. Without a complete delineation of these features, it is not possible to summarize the features outside the project area. Within the project area of this reach, there are 3 identified wetland. Vegetation is minimal, in most areas covering less than and 50% of the area. Most of the wetlands are small, low habitat value, with no discernible flow exiting the wetland. Therefore, the wetlands have minimal functions. The major function that these wetlands perform is erosion control.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: **The relevant reach beginning and end point being evaluated is depicted by the blue line on the attached map. The unnamed, non-Relatively Permanent Water (non-RPW) has features of an ephemeral tributary with an ordinary high water mark (OHWM). Features observed supporting clear evidence of flow and an OHWM throughout the channel include: defined bed and bank and destruction of vegetation. This reach is located in the upper portion of the local watershed, capturing runoff from the surrounding wooded and agricultural areas. The drainage area for this reach is approximately 105 acres and the local watershed is approximately 670 acres. The drainage area and the watershed area are estimates and may not be accurate due to the modification within the watershed area for roads and other urban influences. The local watershed was calculated by measuring all of the drainage upstream of the nearest RPW. Based on information provided by the consultant and a field visit by this office, the nearest estimated RPW is the Fishing River and the Traditional Navigable Water (TNW) is the Missouri River. Although a portion of the lower Fishing River may qualify as a TNW, for the purposes of this determination, the Missouri River will be considered the TNW. The Missouri River is approximately 27 river miles from this reach. Hydrologic connectivity refers to the flow that transports organic matter and nutrients, energy, and aquatic organisms throughout the system. The following outlines how the unnamed non-RPW maintains a significant nexus to the Missouri River through its hydrologic connectivity. There is no interruption of flow or hydrologic connectivity between the 3,955 linear foot tributary and the Fishing River. Based on**

observed conditions, the unnamed tributary has the capacity to carry surface flow hydrology via a confined channel to the Fishing River, then into the Missouri River. It has been determined that the non-RPW maintains hydrologic connectivity to the TNW, thereby providing a significant nexus between the non-RPW and a TNW. The unnamed non-RPW has the potential to influence the chemistry of the Missouri River through its transport of sediments and nutrients and geochemical cycling. Rainfall within this area provides a pulse of stormflow, thus providing a source of hydrology to local waterways. It is potential that the tributary contributes to the chemical make up of the Missouri River, through its ability to convey sediments and nutrients during these pulses. These nutrients and chemicals can be transported downstream to the Missouri River as they are carried in suspension in stormwater. This reach is surrounded by a vegetative area supporting an uneven aged mix of woody trees and herbaceous plant species. Riparian conditions consist of a 75-foot buffer of the channel for approximately 40% of the length of the channel. As the channel progresses downstream, wooded vegetation within the corridor increases in density and width. The riparian conditions provide a natural filter for water quality, supply a continual source of organic material, dispersion of flow energy, and support channel integrity for the conveyance of flow to downstream waters. Lastly, headwater streams have been documented as providing necessary habitat for a variety of birds, mammals, reptiles, and amphibious populations. Because headwater streams have a small catchment area, they are varied and maintain some of the most diverse habitats within a lotic system. Headwater streams are utilized not only by species unique to headwater streams, but are also used by animals requiring headwater streams for certain life stages and/or are utilized by animals that migrate between headwater environments and larger waters. Within this reach three wetlands has been identified within the project area. Although the NWI maps identify several other water features as wetland, the majority of the features are livestock ponds. Without a complete delineation of these features, it is not possible to summarize the features outside the project area. Total acreage for the wetlands within the project area is approximately 0.10 acres of palustrine emergent plant communities. This wetland functions to slow down the flow velocity, therefore promoting the deposition of sediments and nutrients carried in the water. In addition, this wetland provides habitat for aquatic and terrestrial wildlife and potential food chain support. Due to the hydrologic connection, the reach has the capacity to contribute hydrology, provide habitat for aquatic life cycles, and provide organic input to downstream waters. Based on these connections, it has been determined that the non-RPW and adjacent wetlands demonstrates a significant nexus to the Missouri River (TNW).

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

- ☐ TNWs: linear feet width (ft), Or, acres.
☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters:

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

- ☒ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- ☒ Tributary waters: 3,955 (1,975 within the project area) linear feet 1-2 width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

⁸See Footnote # 3.

- ☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- ☒ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: **0.10** acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☐ Demonstrate that impoundment was created from “waters of the U.S.,” or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: .
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

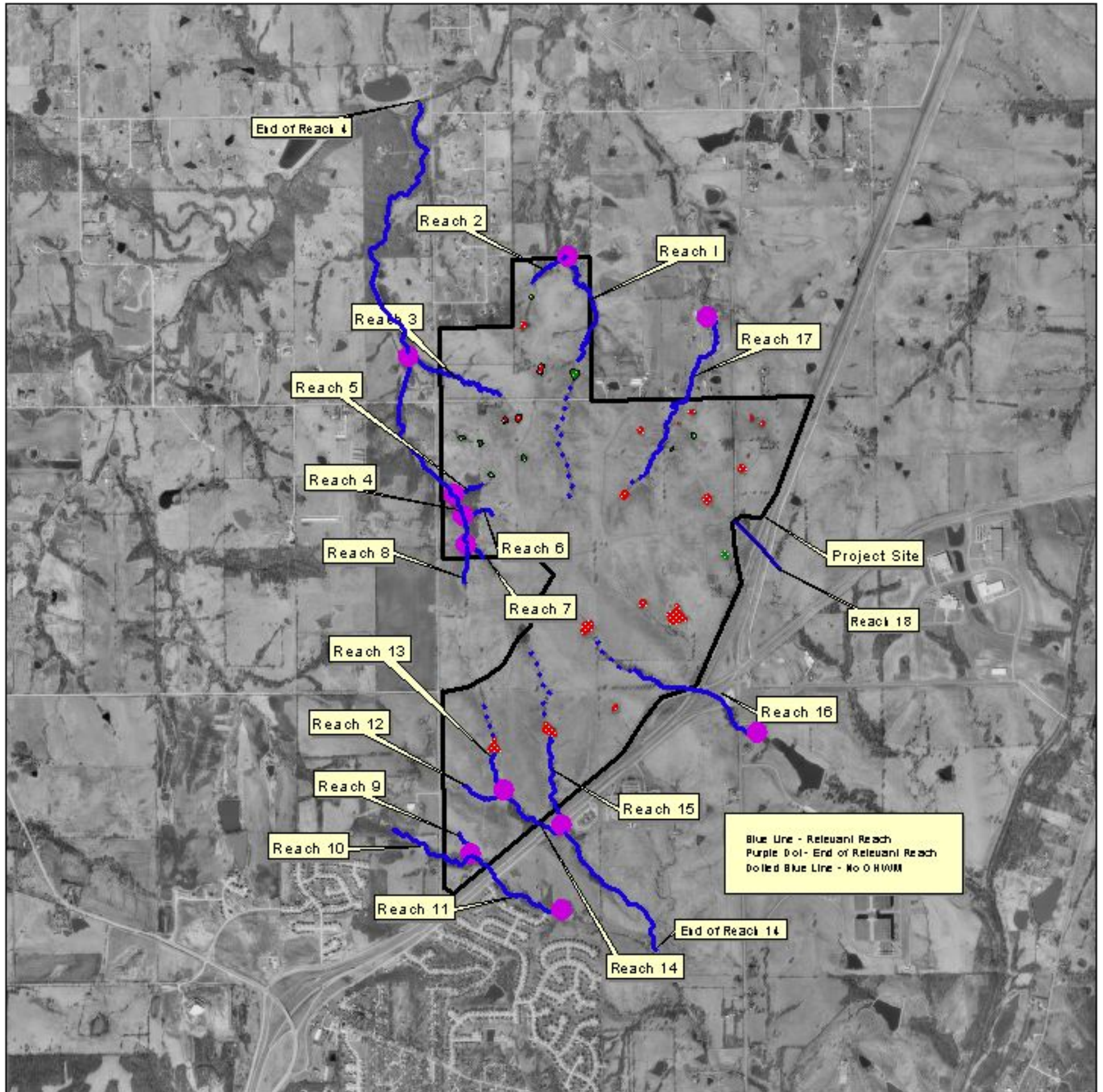
SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters’ study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 7.5 minute topographic map, Kearney SW Quadrangle.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☒ National wetlands inventory map(s). Cite name: Kearney SW.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 1999 ArcView ortho photography, Kearney, MO.
or ☒ Other (Name & Date): SCI Engineering, Nov 2006.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: Topographic maps and aerial photos were used to determine the jurisdiction of this stream. In addition, an on-site field inspection of the site confirmed this determination. The project site is currently an agricultural field, adjacent to Interstate 29, north of Liberty Missouri. Adjacent to the southwest corner of the site is residential development. Most of the project site is fescue pasture with minimal wooded vegetation. Most of the wooded vegetation is adjacent to the channels and non-relatively permanent waters. Public access to the site is restricted. The southern portion of the project site drains to the Rush Creek and the northern portion drains to the Fishing River. .

NWK-2007-1292, Relevant Reach Map



0 0.5 Miles



NWK-2007-1292, Relevant Reach Map

